

Chapter CLXXVII.¹

THE SPEAKER.

1. Statement of motion by the Chair governs its interpretation. Section 247.
 2. Duties as presiding officer. Section 248.
 3. Questions not for his decision. Sections 249–257.
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247. The motion as stated by the Chair in putting the question and not as stated by the Member in offering the motion, is the proposition voted upon.

On May 26, 1917,² while the bill (H. R. 4188) for the distribution of agricultural products was under consideration in the Committee of the Whole House on the state of the Union, Mr. Horace M. Towner, of Iowa, asked unanimous consent that the portion of the bill then under consideration—

be considered under the rule governing appropriation bills, and that the amendments be offered at the end of the paragraph.

The Chairman put the question as follows:

The gentleman from Iowa asks unanimous consent that this particular section shall be considered by paragraphs.

The question is on the motion of the gentleman from Iowa. Is there objection?

There was no objection.

On May 28,³ when the bill was again under consideration, Mr. Sidney Anderson, of Minnesota, made a point of order against an amendment to strike out certain language offered by Mr. James F. Byrnes, of South Carolina, and said:

My contention is that section 9 of this bill relates solely to appropriations; that legislative provisions are not in order as amendment to it; that they should be considered, and, under unanimous-consent agreement of Saturday, must be considered, in the light of a general appropriation bill. I call the attention of the Chair to the unanimous-consent agreement which was entered into on Saturday.

The Chair did not put the question in exactly the form submitted by the gentleman from Iowa. But if the request made by the gentleman from Iowa was the request upon which the committee acted on Saturday, the committee is now considering the appropriation sections of the bill under the rules governing appropriations, and it would not be in order as to any section to

¹Supplementary to Chapter XLIV.

²First session Sixty-fifth Congress, Record, p. 2947.

³Record, p. 2992.

offer an amendment changing existing law, or to amend the section so that as amended it would change existing law. Now, under existing law the increasing of food production and eliminating waste by educational and demonstrational methods are obviously in order. But if the language "and promoting conservation of food by educational and demonstrational methods" is eliminated, that will leave simply the language "for increasing food production and eliminating waste."

Now, that language obviously contemplates and authorizes the doing of things which are not authorized by law. The gentleman from South Carolina, [Mr. Byrnes] himself contends that if that language remains in the bill it will authorize the addition of a paragraph which makes new law, and if it does it is new law standing alone. My contention is that the amendment of the gentleman from South Carolina is not in order because in effect it changes an appropriating section in such a way as to make it new law.

The Chairman ¹ held:

The gentleman from Iowa, Mr. Towner, asked unanimous consent that this portion of the bill, referring to these paragraphs, which contain certain appropriations, be considered under the rules governing appropriation bills, and that amendments be offered at the end of the paragraph. But it seems that the proposition stated to the committee by the Chair was—

"The gentleman from Iowa asks unanimous consent that this particular section shall be considered by paragraphs"—

And that was agreed to. Now, of course the Chair takes it that the question is not as to what a Member may ask by way of unanimous consent, but it is the proposition which was actually submitted to the committee, and to which the committee agreed and that in this case was that this particular portion of the bill, which is not an appropriation bill, be considered by paragraphs instead of by sections, as it would otherwise be considered.

The Chair holds strictly to the proposition submitted by the Chair at the time it was submitted, and would have to hold that the only request submitted to the committee was to consider this particular section by paragraphs and not under the rules governing appropriation bills.

248. When precedents conflict, the Chair is constrained to give greatest weight to the latest decisions.

On July 20, 1909,² during consideration of the urgent deficiency bill in the Committee of the Whole, Mr. Marlin E. Olmsted, of Pennsylvania, offered an amendment providing for the payment of an extra month's salary to employees of the House and Senate.

In reply to a point of order interposed of Mr. Robert B. Macon, of Arkansas, against the amendment, Mr. Olmsted cited decisions in the Forty-eighth, Fifty-fourth, and Fifty-fifth Congresses in support of this contention that the amendment was in order.

The Chairman ³ said:

There is no question about the decisions having been rendered that were cited by the distinguished gentleman from Pennsylvania, and the last instance cited by him was in the Fifty-fifth Congress, where a decision of the Chair sustaining the point of order was overruled by the committee. But the Chair is, of course, bound by the last precedent upon the question. In the Fifty-sixth Congress, on May 14, 1900, an amendment providing an extra month's pay for employees was ruled out of order on the general deficiency bill by Mr. Chairman Hopkins, and on appeal the decision was sustained—ayes 58, noes 24.

There is no question in the mind of the Chair that the proposed appropriation is wholly without warrant of law. The Chair is, therefore, compelled to sustain the point of order.

¹ Courtney W. Hamlin, of Missouri, Chairman.

² First session Sixty-first Congress, Record, p. 4572.

³ Irving P. Wanger, of Pennsylvania, Chairman.

249. It is not the duty of the Chair to decide hypothetical points of order or to anticipate questions which may be suggested in advance of their regular order.

On May 26, 1917,¹ during consideration of the bill (H. R. 4188) for the distribution of agricultural products, in the Committee of the Whole House on the state of the Union, Mr. James F. Byrnes, of South Carolina, offered an amendment authorizing the sale of nitrate of soda to farmers by the Government. The amendment was ruled out of order as not germane to the section to which offered. Thereupon² Mr. Byrnes offered an amendment striking out that section of the bill, and said:

If my motion to strike out should prevail it is my purpose to follow it with a motion to insert in lieu of the language stricken out the amendment heretofore offered by me authorizing the Secretary of Agriculture to furnish nitrate of soda at cost.

I have no desire to consume the time of the Committee of the Whole, nor have I any desire to attack this particular section of this bill. If I can not accomplish the object I have in mind, I do not desire to discuss this specific motion to strike out. Therefore I propound this parliamentary inquiry: Assuming that my motion to strike out shall prevail, and that I follow it with the motion I have indicated to insert in lieu thereof the language of the amendment with which, the Chair is already familiar, I desire to ask whether or not the Chair will now rule on the question as to whether that would be in order? If the Chair rules that it is not in order, then the time of the House will be saved.

The Chairman³ held:

The Chair certainly would not anticipate a matter that is not before the committee.

The Chair can not anticipate, even though he may have intimations as to what may follow, and he will not anticipate his ruling on a proposition until it is submitted in a regular, orderly way to the committee.

250. It is not the duty of the Chair to construe the Constitution as affecting proposed legislation.

On May 21, 1919,⁴ during consideration by the House of a joint resolution submitting for ratification an amendment to the Constitution providing for woman suffrage, Mr. Edward W. Saunders, of Virginia, offered an amendment authorizing ratification by popular vote in three-fourths of the several States, as provided by the joint resolution.

Mr. Thomas L. Blanton, of Texas, made the point of order that the method of ratification proposed by the amendment was in violation of the Constitution.

The Speaker pro tempore⁵ said:

The Chair does not pass upon the constitutionality of an amendment, and therefore overrules the point of order.

251. On November 27, 1922,⁶ the bill (H. R. 12817) to amend the merchant marine act of 1920 was under consideration in Committee of the Whole House on

¹First session Sixty-fifth Congress, Record, p. 2958.

²Record, p. 2994.

³Courtney W. Hamlin, of Missouri, Chairman.

⁴First session, Sixty-sixth Congress, Record, p. 87.

⁵Simeon D. Fess, of Ohio, Speaker pro tempore.

⁶Third session Sixty-seventh Congress, Record, p. 323.

the State of the Union, when Mr. John C. Box, of Texas, offered an amendment requiring certain treaties to conform to the immigration laws of the United States.

Mr. Carl R. Chindblom, of Illinois, raised the point of order that Congress could not by legislation establish the terms of treaties to be negotiated by the Executive department of the Government.

The Chairman ¹ said:

The gentleman raises a constitutional question. It is not within the province of the Chair to determine that. The Chair overrules the point of order.

252. It is not within the province of the Chair to decide whether proposed legislation conflicts with treaty obligations.

On May 28, 1924,² during consideration in the Committee of the Whole House on the state of the Union of the bill (H. R. 8687) to authorize alterations to certain naval vessels, Mr. Fred A. Britten, of Illinois, offered an amendment to increase the elevation and range of turret guns on certain vessels, when Mr. Thomas L. Blanton, of Texas, made the point of order that such alterations would be in violation of treaty obligations heretofore entered into with foreign countries.

The Chairman ³ said:

The question whether it is in violation of a law or of a treaty is not for the Chair but for the committee to decide. The point of order is overruled.

253. It is for the House and not the Speaker to decide whether or not an office is incompatible with membership in the House.

It is not the duty of the Speaker to decide a hypothetical question.

On January 15, 1909,⁴ following the reading and approval of the Journal, Mr. John W. Gaines, of Tennessee, propounded as a parliamentary inquiry:

Mr. Speaker, a parliamentary inquiry. I notice that on the roll call on yesterday, that Mr. George L. Lilley, of the State of Connecticut—was called as a Member of this House; I want to ask the Speaker if he is any longer a Member of this House, having been sworn in as, and being now, governor of the State of Connecticut?

The Speaker ⁵ said:

From the headlines of the newspapers the Chair has noticed some question as to whether Mr. Lilley is governor of the State of Connecticut, but the Chair has no official information in the premises.

Of course, if the House has official information that Representative Lilley is in the enjoyment of the office, namely, governor of the State of Connecticut, that would be a matter for the House to decide whether or no that is an office incompatible with the position of Representative in the House, and the Chair does not care to give any opinion in the premises upon a hypothetical case.

254. The effect or purport of a proposition is not a question to be passed on by the Chair.

A point of order as to the competency or meaning of an amendment does not constitute a parliamentary question.

¹ John Q. Tilson, of Connecticut, Chairman.

² First session Sixty-eighth Congress, Record, p. 9766.

³ William J. Graham, of Illinois, Chairman.

⁴ Second session Sixtieth Congress, Record, p. 951.

⁵ Joseph G. Cannon, of Illinois, Speaker.

On March 15, 1918,¹ during consideration of the legislative, executive and judicial appropriation bill, in the Committee of the Whole House on the state of the Union, Mr. Joseph W. Byrns, of Tennessee, made the point of order that an amendment to the bill proposed by Mr. Meyer London, of New York, was without sense.

The Chairman² declined to entertain the point of order for the reason that it did not present a parliamentary question.

255. The question as to whether a proposed amendment embodies a proposition already voted on is one to be passed upon by the House and not by the Speaker.

A change in the wording of the text of a proposition is sufficient to prevent the Chair from ruling it out of order as one already disposed of.

On March 21, 1908,³ during the consideration of the fortifications appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Walter I. Smith, of Iowa, offered an amendment providing that material purchased under the provisions of the act should be of American manufacture.

Mr. Swagar Sherley, of Kentucky, raised the point of order that the amendment comprised subject matter upon which the committee had already expressed its views.

The Chairman⁴ said:

It is not for the Chair to enter into the question of the consistency of an amendment or the intent of an amendment. On its face it is a different amendment from the original proposition, as the gentleman will appreciate.

It is a substantial change of words, and it is not for the Chair to say what the effect of it is.

The Chair would like to offer further proof by reading from Jefferson's Manual:

"If an Amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications and suppress instead of subserving the legislative will."

The Chair therefore overrules the point of order.

256. It is not within the province of the Chair to decide whether an amendment is inconsistent with previous action of the committee.

On August 3, 1921,⁵ the bill (S. 674), for the distribution of captured war trophies, was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Julius Kahn, of California, proposed an amendment authorizing an appropriation for the purpose of carrying out the provisions of the act.

Mr. Finis J. Garrett, of Tennessee, made a point of order against the amendment on the ground that a similar provision had been previously rejected by the committee.

¹ Second session Sixty-fifth Congress, Record, p. 3562.

² Edward W. Saunders, of Virginia, Chairman.

³ First session Sixtieth Congress, Record, p. 3734.

⁴ Adin B. Capron, of Rhode Island, Chairman.

⁵ First session Sixty-seventh Congress, Record, p. 4020.

The Chairman ¹ said:

Jefferson's Manual contains the following paragraph:

"SEC. 459. If an amendment be proposed inconsistent with one already agreed to, it is fit ground for its rejection by the House, but not within the competence of the Speaker to suppress it as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will."

The Chair thinks in accordance with the precedent there laid down and the principle established it is not within the jurisdiction of the Chair to declare this amendment subject to a point of order upon the ground that it is inconsistent with the previous action of the committee, and therefore the Chair overrules the point of order.

257. A question as to the inconsistency of a proposed amendment with action previously taken by the committee, is a proposition to be passed upon by the committee and not by the Chair.

On April 6, 1909,² while the tariff bill was under consideration in the Committee of the Whole House on the state of the Union, the committee rejected a motion by Mr. James A. Tawney, of Minnesota, to strike out paragraphs 196 and 197 of the bill.

Thereupon Mr. Tawney offered the following amendment:

Transfer all of the items in paragraphs 196 and 197, proposed to be stricken out by my amendment originally offered to paragraphs 196 and 197, and transfer all of said items to paragraph 708 of the free list.

Mr. Joseph H. Gaines, of West Virginia, raised the question of order that the amendment was inconsistent with the action already just taken by the committee.

The Chairman ³ said:

The Chair does not desire to hear argument; it is not for the Chair to determine the consistency or inconsistency of the amendment. The committee must determine for itself whether or not it will be consistent. This is not the same identical amendment that was voted upon, and is an amendment to a different part of the bill—an entirely different paragraph—and it appears to be germane. The point of order is overruled.

258. Extreme disorder arising on the floor, the Speaker directed the Sergeant-at-Arms to enforce order with the mace.

On March 4, 1911,⁴ the House was considering the conference report on the general deficiency appropriation bill.

In the midst of much disorder, the Speaker put the question on agreeing to the conference report, and directed the Clerk to call the roll.

Extreme disorder continued after the roll call began, many Members standing and addressing the chair.

The Speaker ⁵ said:

The Sergeant-at-Arms will take the mace and see that gentlemen are seated. The Clerk will call the roll.

¹ Joseph Walsh, of Massachusetts, Chairman.

² First session Sixty-first Congress, Record, p. 1139.

³ Marlin E. Olmsted, of Pennsylvania, Chairman.

⁴ Third session Sixty-first Congress, Record, p. 4331.

⁵ Joseph G. Cannon, of Illinois, Speaker.

The Sergeant-at-Arms, bearing the mace, appeared at the head of the center aisle.

Members resumed their seats, and the Clerk proceeded with the calling of the roll.

259. A point of order being raised against an interruption from the galleries, the Speaker admonished the galleries.

On December 20, 1923,¹ Mr. Bill G. Lowrey, of Mississippi, while addressing the House by unanimous consent said:

Congress has appropriated for the care and compensation of World War veterans \$2,250,000,000—\$102 for every family in the country.

A voice from the gallery asked, “Who got the money?”

In response to a point of order against the interruption made by Mr. Thomas L. Blanton, of Texas, the Speaker² said:

The gentleman from Texas makes the point of order that an occupant of the gallery in addressing any remarks to Members on the floor is out of order. The Chair, of course, admonishes the people in the gallery that they are here by the courtesy of the House and that it is quite beyond their province to interrupt the proceedings of the House.

260. A spectator in the Senate gallery having addressed remarks to the floor, the Vice President directed the Doorkeeper to remove him.—On June 1, 1920,³ the Senate was considering the concurrent resolution (S. Con. Res. 27) respectfully declining to grant to the Executive the power to accept a mandate over Armenia, as requested in the message of the President dated May 24, 1920. Mr. Frank B. Brandegee, of Connecticut, was addressing the Senate when the following occurred:

Mr. Brandegee. The House of Commons in Britain has resounded with the eloquent periods of British statesmen, before and since the time of Gladstone, denouncing the atrocities of the Turks and of the Turkish rule everywhere, and it has called upon the powers to take measures to suppress the bloody government of the Sultan. [Voices in the galleries pleading for the cause of Ireland.]

The Vice President⁴ said:

The Sergeant at Arms will see that those persons are removed from the galleries.

Mr. Brandegee continued:

As much as we sympathize with the Armenians, Congress is a responsible body in the authorization and direction of the governmental policies of this country. [Other voices in the galleries pleading for the cause of Ireland.]

The Vice President directed:

The doorkeepers will remove from the galleries the persons violating the rule of the Senate.

261. The Speaker has general control of the Hall and corridors in the House wing of the Capitol.

The Speaker has the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House.

¹ First session Sixty-eighth Congress, Record, p. 472.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Second session Sixty-sixth Congress, Record, p. 8057.

⁴ Thomas R. Marshall, Indian, Vice President.

The rule relating to the control by the Speaker of the Hall and its surroundings, and the disposal of unappropriated rooms under the jurisdiction of the House, is section 3 of Rule I:

He shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House, until further order.

This rule was amended in the revision of 1911,¹ giving the Speaker, in addition to the general control previously exercised under the rule, the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House.

With this exception, the rule retains the form it has borne since 1885.

262. Instance wherein the Speaker directed the removal of a placard posted in the lobby of the House.—On June 4, 1930, while the tariff bill was under daily consideration, the Speaker² directed the removal from the Lobby of the House of an anonymous placard reading as follows:

1. The plain purpose of the gentleman's agreement was that the House and not its conferees should determine the duties on lumber.

2. The mandate of the House by overwhelming majorities was that all lumber be placed on the free list.

3. The House conferees, in violation of the gentleman's agreement and in disregard of the positive mandate of the House, voted lumber used by the farmers on the dutiable list and poles and ties used by the public utilities on the free list.

4. The conferees are the servants of the House, not its masters. Will the Members by their votes condone the violation of the gentleman's agreement and the disregard of the positive mandate of the House on the part of its conferees?

On the following day³ Mr. Albert Johnson, of Washington, rising to a parliamentary inquiry, asked:

I would like to inquire if the rules of the House forbid the placing of propaganda in the Speaker's lobby when no debate on the subject of the propaganda is on at the time that the propaganda is put there? And further, is it proper to put printed matter in large placarded letters in the lobby criticizing this body?

The Speaker replied:

The Chair will simply state that he ordered the Doorkeeper to remove the document yesterday.

As soon as it was called to the attention of the Chair it was ordered removed, under the authority which the Chair possesses under rule 1, clause 3, which provides as follows:

"He [the Speaker] shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House until further order."

Mr. Charles R. Crisp, of Georgia, inquired:

Mr. Speaker, I have no criticism of the Speaker having the placards removed if the Speaker saw fit, but I rise to this parliamentary inquiry: Does the Speaker hold that when a Member of the House places a statement in the lobby of the House for the benefit of his colleagues that that Member is a lobbyist or is guilty of lobbying?

¹ First session Sixty-second Congress, Record, p. 80; Journal, p. 40.

² Nicholas Longworth, of Ohio, Speaker.

³ Second session, Seventy-first Congress, Record, p. 10122.

I happened to be passing by and saw an honored Member of this House putting up the notices in the lobby, and I just wanted to know whether the Speaker was agreeing with the statement of the gentleman from Washington that the Member of the House was lobbying by placing that in the lobby?

The Speaker explained:

No. That is not the point at all. The point is that in the opinion of the Chair it imputed dishonorable motives to the conferees on the part of the House.

The Chair thinks that anything which gives information is proper, but anything which imputes dishonorable motives to Members of the House, either conferees or others, is not proper.

The Chair has no knowledge of who did it or how it was done.

The Chair thinks he could have them all removed if he saw fit, but he certainly would not cause to be removed any placards which were intended to give information and not impute any dishonorable motives to a Member.